

OFFICE OF THE CLERK
UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND

The Federal Center
380 Westminster Mall, 6th Floor
Providence, Rhode Island 02903
Website: www.rib.uscourts.gov

Susan M. Thurston
Clerk of Court

Telephone: 401 528-4477, x30
Facsimile: 401 528-4470
E-Mail:
Susan_Thurston@rib.uscourts.gov

NOTICE OF ADOPTION

Amendment of Local Rules and Forms Effective December 1, 2003

1002-1, 1005-1, 1006-1, 1009-1, 2002-1, R.I. Bankr. Forms P.3, P.4 and Appendices V and IX

Pursuant to 28 U.S.C. §2071, Fed.R.Civ.P. 83, Fed.R.Bankr.P. 9029, and the November 11, 1990 Order of the U.S. District Court Authorizing Promulgation of Local Bankruptcy Rules, the U.S. Bankruptcy Court for the District of Rhode Island hereby provides notice that the Local Rules and Forms listed above have been amended.

Copies of the amended local rules and forms are available at the Clerk's office or on our website at www.rib.uscourts.gov. These rule and form amendments are effective beginning December 1, 2003, and shall apply to all cases filed on or after this date, and all cases pending in this court as of this date.

November 18, 2003

FOR THE COURT

Susan M. Thurston, Clerk

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND**

AMENDED LOCAL RULES AND FORMS

Effective December 1, 2003

RULE 1002-1 **PETITION - GENERAL**

(a) Filing. A petition commencing a case under the Bankruptcy Code shall be filed in the office of the Clerk or by electronic means as established by the Court. Filing of the petition or related schedule, statement or list by facsimile transmission is not authorized in this District.

(b) Form. A petition commencing a voluntary case shall conform substantially to Official Form No. 1, and be fully completed by petitioner. All petitions must include the full name(s) and address(es) (including zip codes) of the debtor(s); the firm name, mailing address, telephone and facsimile number, and state bar admission number of the attorney for each debtor.

(c) Number of Copies. [This subsection was abolished on March 3, 2003].

(d) Mailing Matrix. In all voluntary cases, a mailing matrix containing the names and addresses, including zip codes, of all known creditors and holders of executory contracts must be filed with the petition, or within twenty-four hours thereafter, even if the schedules are not filed with the petition. Failure to file the mailing matrix at the time of filing will result in the automatic issuance of a two (2) day Notice of Missing Documents and Notice of Dismissal if Documents are Not Timely Filed. In the absence of a showing to the contrary, any such dismissal shall be presumed to be a willful failure within the meaning of 11 U.S.C. §§ 109(g), with a 180-day bar to refile any petition.

(1) Mailing Format. In accordance with the filing requirements set forth by Fed.R.Bankr.P. 1002, 1003, and 1007, the debtor shall file with the petition a list of creditors/matrix listing the name and address of each creditor shown on the debtor's schedules in the format prescribed by the clerk's office and designated as Amended R.I. Bankr.Form A in all conventionally filed cases, and in cases filed electronically if the list of creditors is not filed with the petition. Unless leave of court is obtained, in all chapter 7, 11, 12 and 13 cases, the list of creditors/matrix shall be

submitted on a computer diskette as set forth in the "Instructions for Submission of the List of Creditors on Computer Diskette", designated as Amended Bankr. Form A. Failure to correctly conform to the requirements detailed in Bankr. Form A will result in the automatic issuance of a two (2) day Notice of Missing Documents and Notice of Dismissal if Documents are Not Timely Filed.

(2) Required Addresses. Except as provided below, the matrix shall include the names and addresses (including zip codes) of all known creditors and parties in interest. The name and address of: (a) the debtor(s); (b) the debtor(s)' attorney; (c) the United States trustee; and (d) the Rhode Island Division of Taxation, should not be included on the matrix because information pertaining to them will be added to the matrix and/or case automatically by the Court.

(3) Incorrect Address; Returned Mail. It is the responsibility of the debtor to ensure that all addresses set forth on the matrix are accurate and complete, and that they conform to the addresses set forth on the schedules. If a mailing based on the creditor matrix is undeliverable by the post office, the mailing will be returned by the post office directly to the debtor's attorney, or debtor, if pro se, and it will be debtor's responsibility to re-mail the document(s). Upon re-mailing, the debtor is also required to file with the Clerk the updated address(es) and a certificate of service of the mailing.

(4) Involuntary Cases. In involuntary cases, the matrix shall be filed within fifteen (15) days of the entry of the order for relief. The matrix shall be prepared and filed by the debtor unless the court orders otherwise.

(5) Amendments to Matrix. See LBR 1009-1(d).

(e) Foreign Country Creditor or Party. In any bankruptcy case that includes creditors or parties in any foreign country, the debtor or such other party specified in R.I. LBR 1002-1(d)(4) shall supply the clerk's office with properly addressed envelopes containing the correct postage affixed thereto, to insure that the mailing reaches the addressees in the foreign country.

(f) Corporate Petition and Petitions for Non-Individuals.

(1) Corporate Petitions . A petition filed by a corporation shall be signed in accordance with 28 U.S.C. §§ 1746 or verified by an authorized officer or authorized agent of the corporation, and shall include a copy

of the board of director's resolution or of the minutes of the corporate meeting, or other evidence of the verifying officer's or authorized agent's authority to file the bankruptcy petition on behalf of the corporation.

(2) Petitions for Other Non-Individuals. A petition by a partnership, trust or other non-individual debtor shall be signed and verified by a general partner, or trustee, or appropriate agent, and shall include evidence of the signatory's authority to file the bankruptcy petition

(3) Legal Representation Required for all Corporations, Partnership, or other non-individuals. The Clerk is not authorized to accept for filing a petition on behalf of a corporation, partnership, trust or other non-individual which is not represented by counsel. This requirement is substantive, and not one of "form," as addressed in Fed. R. Bankr. P. 5005(a).

(4) "Doing Business As" or "Formerly Known As". The Clerk is not authorized to accept for filing a petition by an individual, corporation or other legal entity that lists as a DBA or FKA a separate corporation or other legal entity. A corporation or other legal entity, must file a separate petition even if it considers itself the FKA or DBA of an individual, partnership, trust or other corporation, and even if its corporate charter has been revoked prepetition. This requirement is substantive, and not one of "form," as addressed in Fed. R. Bankr. P. 5005(a).

RULE 1005-1 **FILING PAPERS - REQUIREMENTS**

(a) Caption of Papers. The bankruptcy case name, number, and chapter shall appear on all papers filed with the Clerk and must also appear on the signature page of all documents filed with the court.

(b) Size and Form. All papers, including the bankruptcy petition, schedules, statements, lists and other papers shall be on 8 ½" x 11" paper. All papers other than the bankruptcy petition and related schedules and lists shall not contain typeset less than 11 point, with the exception of footnotes which shall not be less than 10 point, and may not contain material that belongs in the body of the text or argument. All such papers shall be double spaced, with the exception of quotations and footnotes.

(c) Number of Copies. [This subsection was abolished on March 3, 2003].

(d) Required Signatures and Identifying Information. Each original paper filed with the Clerk shall include the filer's name, original signatures, address, telephone number, facsimile number, and if an attorney, the law firm's name, the attorney's state bar identification number, and the name of the client.

(e) Required Response Time Language Must Be Included on All Papers.

(1) Usual Papers. In order to provide adequate notice to interested parties of the time to respond, every motion (except those set forth in paragraph (2) below), application, petition (not including bankruptcy petition), objection to claim or objection to exemption filed with the clerk's office shall contain language substantially similar to the following, in single or double space and must appear in at least 11 point type:

Within ten (10) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail or electronically, any party against whom this paper has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Bankruptcy Court Clerk's Office, 380 Westminster Mall, 6th Floor, Providence, RI 02903, (401) 528-4477. If no objection or other response is timely filed within the time allowed herein, the paper will be deemed unopposed and will be granted unless: (1) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the Court, the interest of justice requires otherwise.

(2) Excepted Papers with Different Response Times. A different objection/response time applies to the following matters and should be substituted for the ten (10) day period above:

- (A) Application to Compromise -- 20 days;
- (B) Motion/Notice of Intended Sale -- 20 days;
- (C) Motion to Amend or Modify a Plan -- 20 days;
- (D) Application (or Notice) to Abandon -- 20 days;
- (E) Motion to Shorten Time (Expedited treatment) -- 5 business days;

discretion of the court. ~~(F) Emergency Motion for Relief not to be used;~~
(G) Motion for Rule 2004 Examination -- see R.I.
LBR 2004-1(c)(2).

(3) Objection to Claim. See R.I. LBR 3007-1.

(4) Objection to Exemption. See R.I. LBR 4003-1(b).

(f) Filings Made on Day of Court. An intended filing related to a matter on for hearing that day, shall be filed in open court and not with the clerk's office.

(g) Caption of Amendments. Any paper filed to effect an amendment of a previously-filed or served paper, including bankruptcy petition, lists, schedules, and statements, shall clearly state in bold print that it is an amendment. Any amendment adding creditors to the case shall be accompanied with the appropriate filing fee, and a supplemental diskette containing only the names and addresses of the added creditors. See also, R.I. LBR 1009-1.

RULE 1006-1 FILING FEE

(a) Manner of Payment. The filing fee commencing a case shall be paid in cash or by cashier's check or money order, made payable to "Clerk, U.S. Bankruptcy Court." Payment by personal check or credit card will be accepted only if the check or credit card is in the name of the attorney for the debtor, or the law firm of which the attorney for the debtor is a member, partner or associate. The applicable miscellaneous shall be assessed and shall be payable to the "Clerk, U.S. Bankruptcy Court" for any dishonored check. The Clerk of the court shall maintain a list of attorneys and law firms whose checks have been dishonored, may refuse to accept the checks of such attorneys or firms, and, if circumstances warrant, may report the attorney(s) or firm(s) to the appropriate authorities.

(b) Multiple/Erroneous Payments of Same Fee or Charge. It is the filer's responsibility to ensure any clerk's office fee or charge is paid only once, and creditors are responsible for ascertaining that the status of the case is such that the action they seek requires a fee. Except where the payment of a fee is the error of the clerk's office, the clerk is not authorized to refund fees paid by mistake. The clerk shall deposit excess or erroneous payments into the appropriate government account.

(c) Payment of Filing Fee in Installments. The clerk may approve a debtor's application to pay the filing fee in installments, if the application contains a payment schedule that provides for at least 25% of the fee at the time of the filing, or within five (5) business days thereafter, and continued payments of 25% commencing within thirty (30) days of the petition date and every twenty-five (25) days thereafter. The application to pay in installments must comply with Official Form 3.

(d) Nonconforming Application to Pay in Installments. An application to pay the filing fee in installments that does not comply with LBR 1006-1(c) shall be presented to the Court for consideration. If denied, the debtor shall have five (5) business days from the date of the order to either resubmit the application in compliance with LBR 1006-1(c) or remit the full filing fee. Failure to timely do either will result in the automatic issuance of an Order to Show Cause why the case should not be dismissed.

RULE 1009-1 **AMENDMENTS OF PETITIONS, LISTS, SCHEDULES AND STATEMENTS**

(a) Procedure and Form. In any open bankruptcy case, amendments to the bankruptcy petitions, schedules, statements of financial affairs, statements of income and expenses, or summaries of assets and liabilities shall be filed with the Clerk. The amendment shall be underlined and in italics to identify the added or changed information. The amended paper shall contain an original signature by the amending party. If the case is closed, amendments to bankruptcy schedules or statements may be made only after the granting of a motion to reopen and a motion to amend.

(b) Notice and Service of Amendment. In each instance in which the debtor amends its petition, lists, schedules or statements, it shall give notice by serving a copy of the amendment upon any trustee appointed, the local office of the United States trustee, and to all other entities directly affected by the amendment, and shall file a certificate of service indicating the parties served and the date and method of service.

(c) Amendments Adding an Omitted Creditor. If, at any time after the first notice of the first meeting of creditors is mailed, pre-petition creditors not previously included on the mailing matrix are added by amendments, the following procedures shall apply:

(1) Contemporaneous with the filing of the amendment and applicable fee, the debtor shall:

(A) file a supplemental disk, listing only the name(s) and address(es) of the added creditor(s) in the form prescribed by R.I. LBR 1002-1(d);

(B) serve a copy of the Notice of Section 341 meeting of creditors, and if applicable, a proof of claim form on any added creditor;

(C) In an individual chapter 7 case, serve a notice informing the creditor of its right to file complaints under 11 U.S.C. §§ 523 and 727, and objections to the debtor's claim of exemptions within sixty (60) days of service of the papers required by this LBR or within the time set for the filing of such

complaints or objections by creditors previously scheduled, whichever is later.

(D) File a certificate of service with the Court acknowledging compliance with this local rule.

- (2) The extensions of deadlines granted by this LBR shall apply only to those creditors added by amendment.
- (3) Creditor(s) added after the Section 341 meeting of creditors has commenced shall, unless the Court orders otherwise, be entitled, upon request to the U.S. trustee, to reconvene the Section 341 meeting.
- (4) In an individual chapter 7 case in which there is no distribution to creditors, if a creditor is added after the order of discharge is entered, the order of discharge shall be deemed to apply to the prepetition debts owed to such creditor as of the later of:

(A) 60 days after the date the debtor certifies compliance with paragraphs (1) above, and no complaints under 11 U.S.C. §§ 523 and 727 are filed by such creditor; or

(B) the date the last orders denying or dismissing such complaints become final.

(d) Amendments to Mailing Matrix. An amended matrix is required to be filed whenever the debtor files its initial schedules containing creditors that were not listed on the original creditor list/ mailing matrix. The following procedures shall apply:

- (1) An amended matrix shall contain only the names and addresses of the new creditors. Creditors listed on the original matrix shall not be repeated on the amended matrix.
- (2) The applicable miscellaneous fee for filing amendments to the lists of creditors shall be filed with the amended matrix.
- (3) If the schedules themselves are being amended to add new creditors, the

debtor shall file the amended schedule listing the added creditors, with the applicable fee, and shall include a supplemental diskette containing only the names and addresses of the added creditors . See LBR1002-1(d).

RULE 2002-1 **NOTICE TO CREDITORS, EQUITY SECURITY
HOLDERS, UNITED STATES, AND UNITED
STATES TRUSTEE**

(a) Designation of Parties to Provide Notice Under Fed. R. Bankr. P. 2002(a) and (f). The Clerk is authorized to designate the persons who shall provide notice to creditors and parties in interest as required by Fed. R. Bankr. P. 2002(a) and (f). A copy of such designation is included as **Appendix I** to these LBRs.

(b) Twenty-five Day Notice to Parties in Interest. The notices required by Fed. R. Bankr. P. 2002(b) for the time fixed for filing objections and the hearing to consider approval of a disclosure statement, and the time fixed for filing objections and the hearing to consider confirmation of a chapter 9 or chapter 11 plan, shall be given by the proponent of the disclosure statement or plan to be considered at the hearing. Notice of the time fixed for filing objections and of the confirmation hearing for chapter 13 plans shall be given by the Clerk, in the first instance.

(c) Notice of Filing of Application for Compensation. [This subsection was abolished on December 1, 2003].

(d) Service of Application for Compensation. In all cases, the applicant must serve a *complete copy of the application for compensation* on:

- (1) the local office of the U.S. trustee;
- (2) any chapter 7, 11, or 13 trustee;
- (3) the debtor and debtor's counsel;
- (4) the chairperson of the creditors' committee and its counsel, if any; and
- (5) the chairperson and counsel of any other official committee approved by the Court.

(e) Notice to Equity Security Holders. The notices required in chapter 11 cases by Fed. R. Bankr. P. 2002(d)(1), (2) and (3) shall be given by the debtor or the trustee, if applicable. The notices required by Fed. R. Bankr.

P. 2002(d)(4), (5), (6), and (7) shall be given by the movant or proponent of the plan or disclosure statement, whichever applies.

- (f) **Notice to Creditors in Chapter 7 Asset Cases and Chapter 13 Cases.** After ninety (90) days following the first date set for the Section 341 meeting of creditors in a chapter 13 case, or within the time allowed by the Court for the filing of claims in a chapter 7 asset case, the Clerk will mail notices only to creditors whose claims have been filed or who have been granted extensions within which to file claims.